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[*LAMONT PUBLIC UTILITY DISTRICT IS A SPECIAL DISTRICT AND A POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA, EXEMPT FROM PAYMENT OF COURT FILING FEES PURSUANT TO GOVERNMENT CODE SECTION 6103]

SUPERIOR COURT OF CALIFORNIA, COUNTY OF KERN

METROPOLITAN DIVISION

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COMMUNITY RECYCLING & RESOURCE RECOVERY, INC., a California corporation and LAMONT PUBLIC UTILITY DISTRICT, a public entity,

Petitioners/Plaintiffs,

vs.

COUNTY OF KERN, a public entity, and DOES 1 through 100, inclusively,

Respondents/Defendants.

CASE NO. S-1500-CV-275272-EB
Complaint filed: 11/22/11

DECLARATION OF TOM FRY IN SUPPORT OF PETITIONERS' REPLY TO RESPONDENT'S OPPOSITION TO EX PARTE APPLICATION FOR STAY OF ADMISTRATIVE ORDER REVOKING CONDITIONAL USE PERMIT [CCP §1094.5(g)]

I, TOM FRY, declare:

GENERAL INFORMATION

1. I am the President of Community Recycling & Resource Recovery Inc. ("Community") I offer this declaration in support of Community's Application to Stay of Administrative Order Revoking Conditional Use Permit. I have personal knowledge of the facts set forth herein and if called to testify, I could and would competently testify thereto except as to those matters stated herein on information and belief and as to those matters I believe them to be true.

2. I have been involved in the refuse and recycling industry for over 50 years. I began recycling in the late 1950's by picking up produce trim and cull from the markets and hauling this material to local cattle and hog feeding operations.

3. I have designed, built, and operated various new concepts in refuse collection and recycling, including, new lightweight front loader vehicles. I designed and built one of the first transfer stations in California in 1974. In 1981, I designed, built, and patented one of the first large scale Material Recovery Facilities (MRF), processing commercial and multifamily refuse in the country. Over the years, I have designed numerous modifications to the MRFs increasing the material diverted to above 30%.

4. I designed and constructed the first large scale Construction Material Recycling Facility (CRMF) in California in response to the Northridge Earthquake where we recycled 88% of 750,000 tons of earthquake debris.

5. I built the first large scale mixed waste compost facility in the State of California and developed the first supermarket produce trim and cull program in the State of California which diverted over 70% of organics from supermarkets. I designed and built a compost screening system to remove film plastic materials from finished compost, processing over 1,000 tons per day of finished compost.

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COMMUNITY RECYCLING HISTORY

6. Community Recycling was established in 1974 as one of the first transfer stations in California. A transfer station receives refuse from local collection vehicles and transfers it to larger semi truck and trailers to more efficiently move the refuse to landfills located in rural areas. This facility was developed to increase the efficiency of refuse collection vehicles by allowing them to tip the refuse at a location much closer to the city and during less congested early morning hours. However, once we evaluated all the potentially usable materials which were not being recycled, we quickly realized the amount of recyclables in the waste stream and started hand sorting metals, wood pallets and cardboard from the refuse.

7. In 1980 we began experimenting with automated ways to increase the amount of recycling. This led to the design, construction and patent of a Front-end sorting system to process the refuse. Thru numerous design changes as the waste stream changed, the system now diverts over 30% of the waste stream from the landfill. This system has become very important to the recycling of waste materials since the implementation of AB 939 in 1989. AB 939 required jurisdictions in the state to recycle 25% by 1995 and 50% by 2000. This facility has enabled many local jurisdictions in the state to comply with the requirements of AB 939.

8. In 1988 Community Recycling began experimenting with ways to separate and recycle debris coming from the expanding Construction Industry. This was still in the research and development phase in 1994 when the Northridge Earthquake struck the San Fernando Valley. A local recycling advocate approached FEMA and was able to convince them that the earthquake debris should not be land filled.

9. At the time of the Northridge earthquake, Community Recycling was processing about 100 tons per day. The FEMA program started delivering material and the first day brought in over 1200 tons. Even without any guarantees of the amount of material that would be processed, or for how long the program would continue, Community began assembling a portable recycling system capable of processing over 1,500 tons per day and capable of recycling over 85% of the earthquake refuse.

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10. After several months recycling earthquake debris, it became obvious that there was still a large volume of earthquake debris to be processed. Additional equipment was purchased and a separate facility was set up that could process up to 3,000 tons per day. In the end Community Recycling was able to process over 750,000 tons of debris and recycled over 88% of this material. Today Community Recycling processes almost 1,200 tons per day of Construction debris recycling over 90% of this waste stream.

11. In 1992, in order to increase necessary and mandated recycling in California, Community Recycling began looking at organics recycling and quickly realized that composting was the best way to recycle organics. We approached the State Integrated Waste Management Board staff about our composting ideas and they recommended that a partnership with small municipal waste water facilities would be an excellent and mutually beneficial arrangement. The staff even recommended several rural municipal waste water plants that were looking for a partner to utilize the effluent from the waste water plant.

12. Community then approached several municipal waste water facilities and was able to enter into an agreement with the Lamont Public Utility District in 1993. The Lamont facility was designed, engineered, permitted, and constructed in 1994, before beginning operations in 1995.

13. Community evaluated all organic materials available from the waste stream and attempted to include all waste organics as permitted materials. These permitted materials included green waste, food waste, supermarket materials, wholesale and retail food residuals, agricultural residuals, and soiled biomass. When mixed together, these materials made an almost perfect blend of ingredients to make excellent quality compost. This blend of organic materials also could recycle large amounts of effluent water from the waste water treatment plant to provide the high level of moisture necessary for composting.

14. The public/private partnership formed between LPUD and Community Recycling truly was beneficial for both partners. Lamont added a partner which would rent its ground and manage the large volume of effluent which had to that point caused Lamont numerous discharge problems culminating in a cease and desist order from the California

Regional Water Control Board. Community utilized a location owned by LPUD which was ideal for composting and a supply of water which otherwise would be wasted, for the composting process.

15. Today, Community is efficiently and environmentally processing approximately 1.7 million gallons per day of Lamont waste water and producing over 300,000 tons annually of finished compost used by farmers from the Salinas Valley to the Mexican border.

16. Community Recycling also started farming local Kern County ranches to demonstrate the benefits of compost on local farm ground. In 1995 this farming began as an 80 acre demonstration farm at the south end of the compost site. This ground was not very visible to the local farming community and not well suited to showcasing the benefits of high quality compost to the local farming community. This led to leasing an additional 450 acres of poor quality ground along the main road just south of the compost facility.

17. Although new farming ground quickly demonstrated the benefits of quality compost for various crops, local farmers were still not convinced of the agronomic benefit. Community continued to lease additional acres of farm ground growing various crops clearly demonstrating the benefits of compost on Kern County soils. Today, Community now farms over 4,000 acres of local farm ground growing corn, wheat, alfalfa, cotton, wine grapes, and almonds. Compost from the Community facility is high quality compost used by hundreds of farmers throughout California.

CONTINUED OPERATION OF FACILITY IS NOT AGAINST THE PUBLIC INTEREST

18. Modern recycling really became desirable when the State of California passed AB 939 in 1989. This law required all jurisdictions in the state to implement programs which would recycle 25% of the waste stream by 1995 and 50% of the waste stream by 2000. Although this proved very difficult and took longer than originally envisioned, the state was able to achieve this aggressive goal due recycling facilities like Community.

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19. Most Cities in the state now are required to provide green waste and recyclable collection service for residential communities and aggressive commercial recycling for many office building and retail stores. Many communities are now encouraging organics recycling of food waste to reach recycling mandates above the 50% level.

20. In 2011 the state amended the law to require that municipalities achieve 75% recycling. This change will require most jurisdictions to make recycling of organics, including food waste, mandatory in an effort to comply with the law. One of the only ways to recycle food waste and other organics is through composting of these residuals. Compostable organics currently make up 32% of the 35 million tons of waste sent to landfills annually. To divert this organic material from landfills and properly recycle this material, will require an additional 12 sites the size of the Lamont Compost facility.

APPLYING WASTEWATER TO COMPOST IS PREFERABLE TO SPREADING WASTEWATER ON AGRICULTURAL GROUND

21. The use of municipal waste water on farm ground limits the types of crops that can be grown to crops used for animal feed or fiber crops. By applying the waste water effluent to compost feed stocks during the high temperature phase of the composting process, any harmful bacteria or fungus are destroyed.

AGRICULTURAL NEEDS FOR COMPOST

22. The organic soil content provides the ground with many benefits including, water holding capacity, healthy soil tilth. Additionally as the organics break down, they provide the crops with many of the nutrients needed to grow healthy plants. Without this level of organic content, the soil does not accept water from irrigation as readily and the farmer may have to irrigate more frequently. This increases the farmers' irrigation labor costs and the farmer loses more water to evaporation, instead of penetrating the soil where it is available to plants.

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23. In addition, a higher level of organics in the soil increases the biological activity in the soil which can provide increased biodiversity. This can reduce the amount of chemicals required to control soil borne pests. Numerous studies have been done that also indicate that the soil holds together better and less topsoil is picked up by high winds when more organics are present. This improves air quality by lowering the amount of particulate matter (dust) in the air during windy periods, especially in the fall and spring when farmers are typically working the soil.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 19th day of January, 2012, at Sun Valley, California.

TOM FRY